

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

JESSE A. LYNCH,

Plaintiff,

v.

Civil Action No. 2:13-30987

DAVID BALLARD, Warden,

And JIM RUBENSTEIN, Commissioner,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending are the Motion by plaintiff Jesse A. Lynch for Default Judgment, filed December 1, 2014, and the Motion by defendants David Ballard and Jim Rubenstein to Dismiss on Grounds of Mootness, filed March 20, 2015.

This action was previously referred to Dwane L. Tinsley, United States Magistrate Judge, who has submitted his Proposed Findings and Recommendations pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the two separate Proposed Findings and Recommendations entered by the magistrate judge on March 19, 2015 and April 16, 2015. The magistrate judge recommends that plaintiff's motion be denied and that

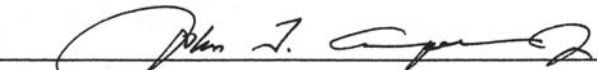
defendants' motion be granted, and that plaintiff not be required to pay any further filing fees. The magistrate judge further recommends that plaintiff be refunded the filing fees already paid. The plaintiff has not objected to either Proposed Findings and Recommendation. The court concludes the recommended disposition is correct.

Accordingly, based upon the foregoing, it is ORDERED as follows:

1. That the Proposed Findings and Recommendations be, and hereby are, adopted by the court;
2. That plaintiff's Motion for Default Judgment be, and hereby is, denied;
3. That defendants' Motion to Dismiss for Mootness be, and hereby is, granted;
4. That plaintiff not be required to pay any further filing fees and be refunded the filing fees already paid for this action; and
5. That this action be, and hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: September 17, 2015

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge